

Notice of Allowability

Application No.

09/857,347

Examiner

James R. Brittain

Applicant(s)

SITBON, ERIC

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3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's communication of October 6, 2004.
2. ☒ The allowed claim(s) is/are 1, 4-12, 14-25, 34, 36, 37, 35, 38-40, 42, 43, 45, 47-49, 13, 3, 26, 28-33, 41, 46; renumbered 1-46, respectively.
3. ☒ The drawings filed on 04 June 2001 and 09 January 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>01052005</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Douglas E. Jackson on January 7, 2005.

The application has been amended as follows:

Claim 4, line 1, "13" has been changed to --1--;

Claim 5, line 1, "13" has been changed to --1--;

Claim 7, line 1, "13" has been changed to --1--;

Claim 8, line 1, "13" has been changed to --1--;

Claim 13, line 15: "movable connected" has been changed to --hinged--;

Claim 14, line 1, "13" has been changed to --1--;

Claim 15, line 1, "13" has been changed to --1--;

Claim 16, line 1, "13" has been changed to --1--;

Claim 17, line 1, "13" has been changed to --1--;

Claim 18, line 1, "13" has been changed to --1--;

Claim 19, line 1, "13" has been changed to --1--;

Claim 20, line 1, "13" has been changed to --1--;

Claim 21, line 1, "13" has been changed to --1--;

Claim 22, line 1, "13" has been changed to --1--;

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Claim 23, line 1, "13" has been changed to --1--;

Claim 24, line 1, "13" has been changed to --1--;

Claim 25, line 1, "13" has been changed to --1--;

Claim 26, line 17: -- and a means for locking said means for motorization in multiple positions-- has been inserted before the period; and

Claim 34, line 1, "13" has been changed to --1--;

Claim 35, line 1, "13" has been changed to --1--;

Claim 38, line 1, "13" has been changed to --1--;

Claim 47, line 1, "13" has been changed to --1--; and

Claim 49, line 1, "13" has been changed to --1--;

The following is an examiner's statement of reasons for allowance: The closest art of record is the fastener of Ellis (US 2389298). While Ellis (figures 10, 11) teaches device structure for holding together, adjusting, fitting or fastening parts of a garment comprising a first part 11B containing several sheaths in the form of pockets having a magnet 12BB inserted in each sheath, the magnet being slidable inside the sheath; a second part 11A containing a second magnet 12AA subject or submitted to the magnetic attraction of the first magnet, wherein the first and second part are used to hold together, adjust, fit or fasten the garment when activated by a user by placing them together, a multitude of adjustments or alterations being possible through the sliding of the first magnet in the sheath and there is a means to activate the movable magnetic element remotely through the elastic system comprising the elastic band 30 connected to the movable magnetic 12BB so as to move the magnet within the sheath, claim 1 incorporates the

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subject matter of original objected claim 2 and is therefore allowable as there is no suggestion in the art of record to further modify the fastener of Ellis so that the second magnet 12AA disclosed by Ellis as being fixed would be included and movable in a second sheath belonging to the second part as this would provide the advantage of greater adjustability. Similarly, with respect to claim 13, there is no suggestion to modify the magnet 12BB or magnet 12AA so that either is a series of at least two magnetic or ferromagnetic elements hinged together. Further, with respect to claim 26, there is no suggestion to modify the elastic band 30 to include a means for locking the elastic band in multiple positions that would provide for enhanced adjustability. While the elastic band 30 is a spring-operated system the equivalent of the means for motorization allowing sliding of the sheath relative to the held magnet in accordance with page 46, lines 21-23 of the specification, it fails to further have a means for locking the elastic band in multiple positions for adjustability and there is no suggestion in the art of record to modify the elastic band to have such a capability.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (703) 308-2222.

The examiner can normally be reached on M-F 5:30-2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB